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EXAMINER

KUNWAR, BINOD J

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BHASKAR PRIYA, HIMANSHU SAWHNEY, and
PARESH KHARYA

Appeal 2017-000884
Application 13/667,933¹
Technology Center 2400

Before ALLEN R. MacDONALD, MICHAEL M. BARRY, and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

BENNETT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's non-final rejection of claims 1–19 and 21, which are all of the pending claims.

We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants' Brief ("App. Br.") identifies Adobe System Incorporated as the real party in interest. However, based on assignment records, we read the real party in interest as Adobe Systems Incorporated.

CLAIMED SUBJECT MATTER

The claims are directed to integrating web analytics products with web conferencing products for better reporting of user interaction and data tracking. Spec. ¶ 15. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method comprising:
 - at a web conferencing host that is hosting a web conferencing event on the Internet, the web conferencing host comprising a web conferencing server:
 - receiving a first set of tracking data from a first client that is attending the web conferencing event, wherein the first set of tracking data is associated with the web conferencing event;
 - transmitting the first set of tracking data to a web analytics server for storage at the web analytics server, wherein the web analytics server is different from, and communicatively coupled to, the web conferencing server;
 - receiving, from a second client that is an organizer of the web conferencing event, a request for a report associated with the web conferencing event, the report including report data;
 - requesting the report data from the web analytics server;
 - responsive to requesting the report data, receiving the report data from the web analytics server, the report data being based on the first set of tracking data and a second set of tracking data, wherein the second set of tracking data is received by the web analytics server directly from the first client; and
 - augmenting the report data with additional data stored at the web conferencing host in order to provide the report including the report data and the additional data; and
 - transmitting the report to the second client.

App. Br. 25–26 (Claims App’x).

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Siegalovsky	US 2005/0114171 A1	May 26, 2005
Ackerman	US 2010/0037151 A1	Feb. 11, 2010
Kuhlke	US 8,392,503 B2	Mar. 5, 2013
Goeldi	US 8,375,024 B2	Feb. 12, 2013

REJECTIONS

Claims 1–19 and 21 stand rejected under 35 U.S.C. § 101 as being directed to ineligible subject matter. Non-Final Act. 10–14.

Claims 1, 3–12, 14, 15, 17–19, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Goeldi, Ackerman, and Kuhlke. Non-Final Act. 14–40.

Claims 2, 13, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Goeldi, Ackerman, Kuhlke, and Siegalovsky. Non-Final Act. 40–43.

ISSUES

First Issue: Has the Examiner erred in finding the cited references teach, suggest, or otherwise render obvious a “web conferencing host comprising a web conferencing server,” as recited in independent claims 1 and 12, and “a web conferencing server,” as recited in independent claim 15?

Second Issue: Has the Examiner erred in concluding the pending claims are directed to ineligible subject matter under 35 U.S.C. § 101?

ANALYSIS

First Issue

Claim 1 recites the performance of various steps “at a web conferencing host that is hosting a web conferencing event on the Internet, the web conferencing host comprising a web conferencing server.” App. Br. 25 (Claims App’x). The Examiner interprets “web conferencing host” as a “person or the organizer who is in charge or [is the] leader or host of the web conference.” Ans. 16. The Examiner interprets “web conferencing server” as “any kind of conference from where user’s [organizer and participants] can participate and interact [with] each other.” Ans. 16 (first pair of brackets in original (bracketed “with” added)). Applying these definitions, the Examiner then finds Goeldi teaches the “web conferencing host” as an “author or leader of social media source within Social media Analytics platform” and the recited “web conferencing server” as a “GUI of event or online social media sources.” Non-Final Act. 15 (citing Goeldi Fig. 1A).

Appellants contend the Examiner has erred in interpreting the recited “web conferencing host” and “web conferencing server.” App. Br. 18. More specifically, Appellants argue “the language of [the] claim [] makes clear that the web conferencing host comprises a web conferencing server.” *Id.* According to Appellants, “[t]he Office’s reliance on a person or a GUI as teaching the ‘web conferencing host’ is clearly erroneous, because it is inconsistent with the claim language specifying that the ‘web conferencing host compris[es] a web conferencing server.’” *Id.* We agree with Appellants.

As noted above, the Examiner interprets “web conferencing host” as a “person or the organizer who is in charge or [is the] leader or host of the web

conference.” Ans. 16. This interpretation is inconsistent with both the language of the claim and the Specification. Appellants argue, and we agree, that the language of the claim requires the “web conferencing host” to comprise a “web conferencing server.” App. Br. 18. That is, the language of the claim specifies that the recited “web conferencing host” includes a “web conferencing server.” Under the Examiner’s proposed interpretation, a person (i.e., the web conferencing host) would need to include a graphical user interface (i.e., the web conferencing server). But people are not made up of graphical user interfaces, and, therefore, the Examiner’s interpretation makes no sense.

Moreover, the Specification makes clear that the recited “web conferencing host” and “web conferencing server” are both computing systems. For example, the Specification describes “an example of a web conferencing product is Adobe®Connect™ available from Adobe® Systems, Inc.” Spec. ¶ 17. The Specification further states “the terms ‘web conferencing product,’ ‘web conferencing host,’ ‘web conferencing application,’ ‘web conferencing server,’ and ‘Adobe Connect’ may be used interchangeably herein,” and that “Adobe Connect . . . is an example of a web conferencing host.” Spec. ¶ 17–18. The Examiner’s finding that Goeldi teaches a “web conferencing host comprising a web conferencing server” because it teaches “person or the organizer who is in charge or leader or host of the web conference” is erroneous because a relies on the incorrect interpretation of “web conferencing host.” Accordingly, we do not sustain the rejection of claim 1 under 35 U.S.C. § 103(a), and also of independent claims 12 and 15, which recite similar limitations. For the same reason, we

do not sustain the rejection of claims 2–11, 13–14, 16–19, and 21, which depend therefrom.²

Second Issue

In rejecting the claims under 35 U.S.C. § 101, the Examiner finds claims 1, 12, and 15 are directed to the abstract idea of gathering data from user activities, providing a report of those activities, and augmenting the report for graphical display to a user. Non-Final Act. 12–13; *see also* Ans. 3–12. The Examiner also finds additional elements recited in the remaining claims do not amount to significantly more than the abstract idea itself because they involve only conventional data gathering and processing operations performed by a generic computer. Non-Final Act. 13; *see also* Ans. 13–15.

Appellants present several arguments against the § 101 rejection. App. Br. 8–17; Reply Br. 4–16. Appellants argue the Examiner characterizes the invention too broadly and ignores the specific limitations recited in the claims, including the various entities involved such as a web conferencing host, a web analytics server, a first client and a second client. App. Br. 11. Appellants further argue the claims amount to more than the abstract idea and include an inventive concept because they are necessarily rooted in computer technology to overcome a problem specific to computer networks. App. Br. 13–14. According to Appellants, “an exemplary computer-network-centric challenge that is addressed by the claims includes the challenge of measuring, collecting, analyzing, and reporting Internet data

² Because we have found one of Appellants’ arguments persuasive of Examiner error, we do not address the remaining arguments made with respect to the rejections under 35 U.S.C. § 103(a).

that is associated with a web conference.” App. Br. 14. Relying on *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014) (“*DDR Holdings*”), Appellants also contend the solution provides a technological improvement because they improve integration and interoperability of a web analytics server and a web conferencing host and reduce storage requirements. App. Br. 14–16. Appellants further argue the claims recite unconventional steps because they are patentable over the prior art, and the claims pose no risk of preemption. App. Br. 16–17.

We do not find Appellants’ arguments persuasive. In analyzing patent-eligibility questions under 35 U.S.C. § 101, the Supreme Court instructs us to “first determine whether the claims at issue are directed to a patent-ineligible concept.” *Alice Corp. Pty Ltd.*, 134 S. Ct. 2347, 2355 (2014). If the initial threshold is met, we then move to a second step and “consider the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Id.* (quoting *Mayo*, 566 U.S. at 1297).

Turning to the first step of the Alice inquiry, we agree with the Examiner that Appellants’ claims are directed to an abstract idea. More specifically, we agree the claims are directed to the abstract idea of gathering data regarding user activities in a web conferencing event, generating a report of those activities, and augmenting the report for graphical display to a user. All the steps recited in claim 1, including, for example: (i) “receiving a first set of tracking data . . . ,” (ii) “transmitting the first set of tracking data . . . ,” (iii) “receiving . . . a request for a report . . . ,” (iv) “requesting the report data . . . ,” (v) “responsive to requesting the report

data, receiving the report data . . . ,” (vi) “augmenting the report data . . . ,” and (vi) “transmitting the report . . . ,” are directed to collecting data from conference attendees, generating a report of those activities, and augmenting the report for the conference host. The steps recited in claim 1 involve nothing more than receiving, analyzing, transmitting, and presenting data. In this regard, the claims are similar to the claims that the Federal Circuit determined were patent ineligible in *Electric Power Group LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016). In *Electric Power Group*, the district court found the claims at issue were found to be directed to “the abstract idea of monitoring and analyzing data from disparate sources.” *Id.* at 1352. The Federal Circuit affirmed the district court’s analysis under *Alice* step 1, stating that:

The claims in this case fall into a familiar class of claims “directed to” a patent-ineligible concept. The focus of the asserted claims, as illustrated by claim 12 quoted above, is on collecting information, analyzing it, and displaying certain results of the collection and analysis. We need not define the outer limits of “abstract idea,” or at this stage exclude the possibility that any particular inventive means are to be found somewhere in the claims, to conclude that these claims focus on an abstract idea—and hence require stage-two analysis under § 101.

Id. at 1353. The analyzed claim in *Electric Power Group* case bears substantial similarity to the claims at issue here. In particular, like the claims in *Electric Power Group*, Appellants’ claims involve collecting data from disparate sources, and providing reporting using that collected data, and they amount to no more than providing a web conferencing host with useful information about its attendees by obtaining and analyzing information. As such, the “advance they purport to make is a process of

gathering and analyzing information of a specified content, then displaying the results, and not any particular assertedly inventive technology for performing those functions.” *See Elec. Power Group*, 830 F.3d at 1354.

Turning to the second step of the *Alice* inquiry, we agree with the Examiner that nothing in Appellants’ claims adds anything “significantly more” to transform the abstract concept into a patent-eligible application. *Alice*, 134 S. Ct. at 2357. Appellants argue that as an ordered combination of steps performed by the web conferencing host, the claims supply an inventive concept because they provide improved integration between a web analytics server and a web conferencing server and reduce storage requirements. App. Br. 10–11. We are not persuaded that these alleged benefits are sufficient to transform the claims into a patent-eligible concept. Neither the claims nor the Specification describe any details of the alleged improved integration beyond the fact that they share data via API calls and select data using parameterized data filters—both conventional data sharing techniques well-known prior to Appellants’ priority date. Thus, the steps recited in the claims are merely ordinary steps in data collection, sharing, analysis, and reporting, and no specific improvements to computer technology are recited in the claims.

We are not persuaded by Appellants’ argument that the claims do not preempt every application of the claimed abstract idea and are, therefore, patent eligible. App. Br. 12–13. Lack of preemption does not make the claims any less abstract. *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (“While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.”). We also disagree that the novelty and non-

obviousness of the claims demonstrates they amount to “something more.” App. Br. 17. Appellants’ argument presupposes that any claim found to be novel and non-obvious over prior art is necessarily “something more” in the *Alice/Mayo* framework. We are aware of no case supporting this proposition, nor do Appellants cite to any. Nor would such a rule make sense, as it would limit the application of 35 U.S.C. § 101 to only those claims found to be otherwise unpatentable under other sections of the Patent Act (e.g., 35 U.S.C. §§ 102, 103, 112).

Finally, we also are not persuaded *DDR Holdings* mandates reversal. As we noted above, Appellants argue *DDR Holdings* controls because the present claims involve functions which improve the integration of an analytics server and a web conferencing server. App. Br. 14–15. We do not view collecting data from conference attendees, generating a report of those activities, and augmenting the report for the conference host as a problem rooted in technology. At its core, Appellants’ invention solves a business problem. Although implemented in the context of a web conferencing system, the abstract idea to which the claims are directed has a close offline analog—namely, the common and long-standing practice of surveying conference attendees regarding their experiences at the conference and learning how they heard about the conference. Thus, the fact that Appellants’ invention is implemented in the context of the Internet does not mean that it solves a problem unique to the Internet as required under *DDR Holdings*.

In sum, we conclude the Examiner correctly determined that the pending claims are directed to an abstract idea. We further conclude the limitations recited in those claims amount to only routine steps of receiving,

analyzing, transmitting, and presenting data using generic computer systems and conventional computer data processing activities insufficient to transform the claim into “something more” than the abstract idea of itself. *See Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1341 (Fed. Cir. 2017). Accordingly, we are not persuaded the Examiner erred in finding the claims ineligible for patenting under 35 U.S.C. § 101, and we sustain the Examiner’s rejections.

DECISION

We reverse the Examiner’s rejection of claims 1–19 and 21 under 35 U.S.C. § 103.

We affirm the Examiner’s rejection of claims 1–19 and 21 under 35 U.S.C. § 101.

Because all the claims were affirmed under at least one ground of rejection, we affirm the Examiner’s rejections of claims 1–19 and 21. *See* 37 C.F.R. § 41.50(a)(1) (“The affirmance of the rejection of a claim on any of the grounds specified constitutes a general affirmance of the decision of the examiner on that claim”)

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED